

How Different Types of Businesses are Treated for the Purposes of Workers' Compensation Insurance Coverage

| Type of Business | Coverage Requirements |
|--------------------------------------|--|
| Sole Proprietors | Sole proprietors are not required to cover themselves but may opt into coverage by purchasing a policy. |
| Partnerships | Partners are not required to cover themselves but may opt into coverage by purchasing a policy. |
| Corporations | Owners of 20% or more of the outstanding voting stock of a corporation may opt out of coverage by filing a waiver form with the Workers' Compensation Board. This waiver must be approved or coverage is required. |
| Limited Liability Companies (LLC) | Treated Like a Partnership |
| Limited Liability Partnerships (LLP) | Treated Like a Partnership |
| Professional Associations (PA) | Treated Like a Corporation |
| Professional Corporations (PC) | Treated Like a Corporation |
| Propria Persona (PP) | Treated Like a Sole Proprietor |
| Service Corporations (SC) | Treated Like a Corporation |

More information is available through:

The Maine Bureau of Insurance

34 State House Station

Augusta, ME 04333

(207) 624-8475

(800) 300-5000 (in-state only)

TTY: (888) 577-6690

Or online at: www.maine.gov/insurance



DEPARTMENT OF

**Professional &
Financial Regulation**

STATE OF MAINE

Opting Out: **A Workers' Compensation Insurance Summary** **for Executive Officers of Corporations**

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Background

The Bureau of Insurance has received some complaints from employers who were previously sole proprietors or partnerships and who are now incorporated. Under Maine Workers' Compensation law, sole proprietors, and partners are not required to have coverage but can opt into coverage by purchasing an insurance policy and electing to be covered by the policy. The individuals filing the complaints did not previously have coverage on themselves and did not intend to after incorporating. After final premium audit, following the conclusion of the policy period, the individuals were surprised to find that their payroll appropriately was included in rather than exempted from premium calculations.

Statutory reference for coverage in this situation is found in Title 39-A, Section 102(11)(A) of the Maine Workers' Compensation Act of 1992 as amended on April 9, 1998. A bona fide owner of at least 20 percent of the outstanding voting stock of a corporation may file a written waiver with the Workers' Compensation Board to waive all the benefits and privileges provided under Workers' Compensation laws, if the waiver is not a pre-requisite condition to employment. Without an approved waiver, payroll of the owner-which may be an executive officer-must be included in premium calculation.

Executive officers (i.e., president, vice-president, secretary, and treasurer) of any charitable, religious, educational, or other nonprofit corporation may come under the Workers' Compensation law if the corporation specifically includes them in the insurance policy.

What is the proper way to waive coverage?

An Application for Waiver form is available on the Workers' Compensation Board's website:
<http://www.maine.gov/wcb/departments/Coverage/waivers.htm>

To request a waiver, complete the form and return it to:

Attn: Insurance Coverage Unit
Maine Workers' Compensation Board
27 State House Station
Augusta, Maine 04333-0027

Staff at the Board will review the waiver form and approve or deny it. This form should also be filed with the insurance carrier to make certain they have it on record.

With assistance from the Maine Workers' Compensation Board and the Secretary of State's office, the Bureau of Insurance has put together the table on the following page regarding specific business designations and workers' compensation insurance coverage requirements. If you have specific questions concerning requirements for workers' compensation insurance coverage, please contact the Maine Workers' Compensation Board at (207)-287-3751.